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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICANTS: Dombkowski et al. EXAMINER: Michael P. Van Handle
APPLN. NO.: 09/775,994 GROUP: 2623 CONF. NO. 7453
FILED: 02/02/2001 DOCKET: LUC-300 / Dombkowski 7-4
TITLE: METHOD FOR TRANSMITTING SIGNALS OVER A CABLE
PROTOCOL

CERTIFICATE OF FACSIMILE TRANSMISSION

I hereby certify that this correspondence is being sent via facsimile transmission to Commissioner for Patents, Mail Stop Amendment, Group Art Unit 2623, Attention: Hai V. Tran, P.O. Box 1450, Alexandria, VA 22313-1450, at fax number (571) 273-8300, on May 16, 2008.



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Date of Signature: May 16, 2008

Commissioner for Patents
Mail Stop Amendment
Group Art Unit 2623
Attention: Examiner Michael P. Van Handle
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Alexandria, VA 22313-1450
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PRE-APPEAL BRIEF REQUEST FOR REVIEW

Dear Sir:

Applicants request review of the final rejection of this application. No amendments are being filed with this request. This request is being filed with a Notice of Appeal. The review is requested for the reasons stated on the attached sheets.

REMARKS

Claims 1-12, 21-36 and 38-40 are pending. Claims 1-12 and 21-36 were rejected under 35 U.S.C. § 102(e). Claims 38-40 were rejected under 35 U.S.C. § 103(a).

Rejections Under 35 U.S.C. § 102 (e)

Claims 1-12 and 21-36 were rejected under 35 U.S.C. § 102 (e) as being anticipated by U. S. Patent Application Number 2002/0021711 issued to Gummalla et al. dated February 21, 2002 in view of U. S. Patent Application Number 2001/0053152 issued to Sala dated December 20, 2001, which is incorporated in Gummalla by reference.

Applicants respectfully traverse this ground of rejection for the following reasons.

First, applicants' claim 1 recites,

"sending one or more upstream signals as pulse code modulated data without packet headers using an upstream cable protocol, wherein at least one of the one or more upstream signals is a video signal;

sending one or more downstream signals as pulse code modulated data without packet headers using a downstream cable protocol; and

enclosing the one or more downstream signals as the pulse code modulated data without application-level packet headers in a Motion Pictures Experts Group (MPEG) transport."

Gummalla does not teach this limitation. This is because Gummalla discloses in paragraph 0054,

"In general, voice channel transmits the raw data without any headers."

Gummalla does not disclose video signals as pulse code modulated data without packet headers.

The Examiner asserts that Gummalla teaches the limitations of applicants' claim 1 based on paragraph 0035 of Gummalla and Sala. Paragraph 0035 of Gummalla states,

"The present invention is described with reference to voice traffic or voice data. But, data in the present invention includes any type of information that is deterministic (i.e., a constant bit rate), such as voice traffic. Also, it is important to note that the present invention is not limited to voice traffic. In fact, the present invention can be used for any constant bit rate source with ON and OFF periods."

As known by those skilled in the art, constant bit rate refers to video or audio encoding where the bit rate used does not fluctuate. By contrast, applicants' claim 1 is not limited to video or audio encoding where the bit rate used does not fluctuate. Furthermore, applicants' claim 1 is not limited to a constant bit rate source with ON and OFF periods. Thus, Gummalla is missing the "video signals as pulse code modulated data without packet headers" elements, as recited in applicants' claim 1.

Second, applicants note that Sala does not teach the limitation either. Applicants agree that Sala discloses video, however, the video in Sala requires packet headers. This is because Sala discloses in paragraph 0037,

"One or more downstream channels carry information (such as, television signals, IP data packets, control messages in MPEG format) from CMTS 102 to the plurality cable modems 104. Similarly, one or more upstream channels carry bursts of packets from the cable modems 104 to CMTS 102."

As known by those skilled in the art, IP data packets and MPEG packets have packet headers that contain the address of the packet destination. It is well known in the art that packets require headers to be routed over the Internet. Consequently, the packet headers are necessary for routing packets in Sala, because Sala discloses routers in paragraph 0079 and the Internet in paragraphs 0036, 0043 and 0079. Therefore Sala, similar to Gummalla, does not disclose video signals as pulse code modulated data without packet headers. Thus, Gummalla in view of Sala is missing the "sending one or more upstream signals as pulse code modulated data without packet headers using an upstream cable protocol, wherein at least one of the one or more upstream signals is a video signal" elements, as recited in applicants' claim 1.

Therefore Gummalla does not teach all of the limitations in applicants' claim 1, and therefore claim 1 is not anticipated by Gummalla. Since claims 2-12 depend from allowable claim 1, these claims are also allowable over Gummalla.

Independent claims 21 and 28 each have a limitation similar to that of independent claim 1, which was shown is not taught by Gummalla. For example, claim 21 recites, "transporting downstream signals as the PCM data without packet headers over a cable media using a downstream cable protocol, wherein at least one of the downstream signals is a video signal" and claim 28 recites "wherein the transport device transports downstream signals enclosed as the pulse code modulated data without application-level packet headers in a Motion Pictures Experts Group (MPEG) transport, and wherein at least one of the downstream signals is a video signal". Gummalla does not teach these limitations for the above-mentioned reasons. Therefore, claims 21 and 28 are likewise allowable over Gummalla. Since claims 22-27 depend from claim 21, and claims 29-36 depend from claim 28, these dependent claims are also allowable over Gummalla.

Rejections Under 35 U.S.C. § 103 (a)

Rejection Under Gummalla and Sala

Claims 39-40 were rejected under 35 U.S.C. § 103 (a) as being unpatentable over Gummalla in view of Sala.

Applicants respectfully traverse this ground of rejection.

As stated in the Office Action, Gummalla and Sala do not disclose the limitations of applicants' claims 39-40. Applicants respectfully object to the Examiner taking official notice regarding claims 39-40. Applicants believe that their invention was not common knowledge nor practiced in the art prior to the filing date hereof. Applicants respectfully request that a reference document be cited as the basis for the rejection of applicants' claims.

Rejection Under Gummalla and Sala

Claim 38 was rejected under 35 U.S.C. § 103 (a) as being unpatentable over U. S. Patent Application Number 2002/0021711 issued to Gummalla et al. dated February 21, 2002 in view of U. S. Patent Number 7,164,690 issued to Limb et al. on January 16, 2007.

Applicants respectfully traverse this ground of rejection.

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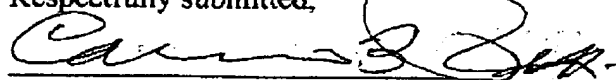
Claim 38 depends from claim 1. Gummalla does not teach or suggest "sending one or more upstream signals as pulse code modulated data without packet headers using an upstream cable protocol, wherein at least one of the one or more upstream signals is a video signal", as recited in claim 1. Limb does not teach or suggest the elements either. Thus, claim 38 is allowable over the proposed combination under 35 U.S.C. § 103 (a).

Conclusion

In view of the above remarks, withdrawal of the rejections and/or reversal of the rejections of all claims pending is respectfully requested.

If a telephone conference would be of assistance in advancing the prosecution of this application, feel free to call applicants' attorney.

Respectfully submitted,



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Dated: May 16, 2008

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